

Effective 5/12/2015

63N-2-604 Recapture.

- (1) The office may recapture a tax credit from an entity that claimed the tax credit allowed under Section 59-9-107 on a return, if any of the following occur:
 - (a) If any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this part is recaptured under Section 45D, Internal Revenue Code, the office may recapture the tax credit in an amount that is proportionate to the federal recapture with respect to the qualified equity investment.
 - (b) If the qualified community development entity redeems or makes principal repayment with respect to a qualified equity investment before the seventh anniversary of the issuance of the qualified equity investment, the office may recapture an amount proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.
 - (c)
 - (i) If the qualified community development entity fails to invest an amount equal to 85% of the purchase price of the qualified equity investment in qualified low-income community investments in Utah within 12 months of the issuance of the qualified equity investment and maintains at least 85% of the level of investment in qualified low-income community investments in Utah until the last credit allowance date for the qualified equity investment, the office may recapture the tax credit.
 - (ii) For purposes of this part, an investment is considered held by a qualified community development entity even if the investment has been sold or repaid if the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months of the receipt of the capital.
 - (iii) Periodic amounts received as repayment of principal pursuant to regularly scheduled amortization payments on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year.
 - (iv) A qualified community development entity is not required to reinvest capital returned from a qualified low-income community investment after the sixth anniversary of the issuance of the qualified equity investment, and the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.
 - (d) If a qualified community development entity makes a distribution or debt payment in violation of Subsection 63N-2-607(1), the office may recapture the tax credit.
 - (e) If there is a violation of Section 63N-2-609, the office may recapture the tax credit.
- (2) A recaptured tax credit and the related qualified equity investment authority revert back to the office and shall be reissued:
 - (a) first, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection 63N-2-603(5)(a);
 - (b) second, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection 63N-2-603(5)(b); and
 - (c) after complying with Subsections (2)(a) and (b), in accordance with the application process.

Renumbered and Amended by Chapter 283, 2015 General Session